



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 12/4/2020

ORM Number: NAB-2020-00391-M43

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Maryland City: Tracy's Landing County/Parish/Borough: Anne Arundel

Center Coordinates of Review Area: Latitude 38.775448 Longitude -76.586505

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Perennial Stream	150 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The Corps conducted a site visit on October 9, 2020. During the review a continuous OHWM and clear bed and bank was observed based on several physical characteristics such as a break in slope, a clear/natural line impressed on the bank, changes in soil characteristics, destruction of vegetation, and the presence of litter and debris. These findings would suggest sufficient seasonal flow, volume, and duration to be a jurisdictional water of the U.S. The perennial stream channel contributes surface water

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
			flow indirectly through Trotts Branch to an a(1) water in a typical year, Herring Bay. See Figure 1. Herring Bay is a tidal water, and is part of the Chesapeake Bay which is classified as a traditional navigable water (TNW). A typical year assessment was conducted and is described in Section III.B. The weight of evidence approach supports the conclusion that this water meets the tributary definition and does contribute perennial flow to a downstream TNW in a typical year.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):			
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
PFO Wetland	0.665 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	During the field review all three wetland parameters were observed and confirmed within the PFO wetland using the 1987 Corps Wetlands Delineation Manual and Regional Supplement. The PFO wetland directly abuts the perennial stream channel (a(2) water) described above. A typical year assessment was conducted and is described in Section III.B. The weight of evidence approach supports the conclusion that the PFO wetland is present during a typical year and is jurisdictional because it abuts the a(2) water above.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	N/A.

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Wetland Report, September 21, 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Other: Submitted with Wetland Report, September 21, 2020](#)
- Corps site visit(s) conducted on: [October 9, 2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Wetland Report, September 21, 2020](#)
- USFWS NWI maps: [Wetland Report, September 21, 2020](#)
- USGS topographic maps: [Wetland Report, September 21, 2020](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">LIDAR, Wetland Delineation Report, September 21, 2020</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Google Earth Pro</a>

**B. Typical year assessment(s):** A typical year assessment was conducted using the Antecedent Precipitation Tool (APT) and results indicated that conditions were wetter than normal at the time of the site visit and delineation. See attached form. However, a thorough review of other data sources to include the USFWS NWI maps, USDA NRCS Soil Survey, and USGS topographic and LIDAR maps indicate the presence of a perennial stream channel and PFO wetlands during a typical year. The soil survey indicates the presence of Widewater and Issue Soils, 0-2% slopes, that are frequently flooded and classified as hydric. In addition, topographic maps for the subject site indicate the presence of a mapped perennial stream on the eastern side of the study area and LIDAR elevation data shows subtle variations in the micro-topography that indicate a stream channel and depressional areas that would support wetland conditions. Historic aerials obtained through Google Earth also indicate the long-term presence of a perennial stream channel on the east side of the site. This evidence supports the conclusion that both the perennial stream channel and PFO wetlands exist in a typical year.

**C. Additional comments to support AJD:** [N/A, please see rational is section II.C above.](#)